

COMMITTEE NOTE

The forms of the Schedules of Assets and Liabilities are amended to implement the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109 - 8, 119 Stat. 23, (April 20, 2005). An amendment that directs the debtor to avoid disclosing the name of any minor child occurs in several of the schedules in conformity with § 112 which was added to the Code in 2005. Section 112 provides for the debtor to provide the name of any minor child confidentially to the court, should the trustee need the information to evaluate properly the information filed by the debtor.

The “Statistical Summary of Certain Liabilities” is added to collect information needed to prepare statistical reports required under 28 U.S.C. § 159, which was enacted as part of the 2005 Act.

Schedules A, B, C, and D are amended to delete the word “market” from the columns in which the debtor reports the value of various kinds of property. Amendments to § 506 of the Code enacted in 2005 specify that “replacement value” must be used in connection with certain property. The schedules no longer specify “market” value and permit the debtor to choose the appropriate one, whether that be replacement, market, or some other value. Valuation of property, generally, is the subject of extensive provisions in the Code, and the deletion of the word “market” from the determinations of value to be made by the debtor on the schedules is intended to remove any inference about choice of valuation standard. This deletion simply indicates that the form takes no position on which Code provision or valuation standard may be applicable in any instance.

The following paragraphs describe changes that are specific to each schedule.

Schedule B - Personal Property is amended to require the debtor to list any interests in an education IRA, as § 541(b)(5), added to the Code in 2005, makes special provision for them. The schedule also is amended to require the debtor to disclose the existence of any customer lists or

other compilations containing personally identifiable information provided by an individual to the debtor in connection with obtaining a product or service from the debtor for personal, family, or household purposes. This amendment implements § 332, which was added to the Code in 2005.

Schedule C - Property Claimed as Exempt is amended to delete descriptive information concerning the length of domicile required for the debtor to qualify to claim certain exemptions. Any summary of the amendments enacted in 2005 to § 522 of the Code concerning these requirements might inadvertently cause the debtor to lose important rights. Accordingly, the form now directs the debtor to indicate whether exemptions are being claimed under § 522(b)(2) or § 522(b)(3) and whether the debtor claims a homestead exemption that exceeds \$125,000.

Schedule E - Creditors Holding Unsecured Priority Claims is amended to implement the changes in priority to which a claim may be entitled under 11 U.S.C. § 507 as amended by the 2005 Act and to add the new priority included in the Reform Act for claims for death or personal injury while the debtor was intoxicated. "Subtotal" and "Total" boxes have been added to the column labeled "Amount Entitled to Priority" to assist the individual debtor to complete the Means Test form.

Schedule G - Executory Contracts and Unexpired Leases is amended by deleting the note to the debtor advising that parties listed on this schedule may not receive notice of the filing of the bankruptcy case unless they also are listed on one of the schedules of liabilities. The better practice is for all parties to transactions with the debtor to receive notice of the filing of the case, and an amendment to Rule 1007 requiring the debtor to provide a mailing list that includes these parties is scheduled to take effect December 1, 2005.

Schedule H - Codebtors is amended to add specifics about community property jurisdictions in connection with the requirement to provide the name of any spouse of a debtor who resides or resided in a community property jurisdiction. This amendment also mirrors amendments made in 1997 to Official Form 7, the Statement of Financial Affairs, and will assure that these codebtors receive notice of the filing of the bankruptcy case. The form also is amended to extend from six years to eight years the time period for which this information is reported pursuant to the 2005 amendments to § 727(a)(8) of the Code.

Schedule I - Current Income of Individual Debtor(s) is amended to require the income of a nondebtor spouse to be reported in cases filed under chapters 7 and 11. Line numbers have been added to assist the debtor in calculating and reporting totals. A new subtotal line for income from sources other than as an employee and a new "total monthly income" line provide for this form to be used in conjunction with Schedule J to satisfy the requirements of § 521(a)(1)(B)(v), which was added to the Code in 2005. The form also has been revised to provide the statement concerning any anticipated increase or decrease in income required in § 521(a)(1)(B)(vi), which also was added to the Code in 2005.

Schedule J - Current Expenditures of Individual Debtor(s). A direction has been added to require the debtor to report any increase or decrease in expenses anticipated to occur within the year following the filing of the document, as required by § 521(a)(1)(B)(vi), which was added to the Code in 2005. The form also is amended to provide, in conjunction with Schedule I, a statement of monthly net income, itemized to show how the amount is calculated, as required by § 522(a)(1)(B)(v), which was added to the Code in 2005.

Declaration Concerning Debtor's Schedules. The declaration by a non-attorney bankruptcy petition preparer is amended to include material mandated by § 110 of the Code as amended in 2005.